

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEBORAH WILSON,
Plaintiff(s),
v.
COMPASS VISION INC., et al.,
Defendant(s).

No. C07-3431 BZ

Related Cases: C07-5642 BZ
C08-4118 BZ
C09-2016 BZ

COMPASS VISION, INC.,
Cross-Complainant,
v.
MAXIMUS, INC.,
Cross-Defendant.

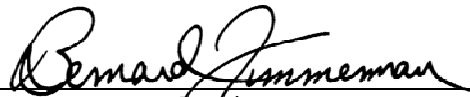
**ORDER GRANTING MOTION FOR
MORE DEFINITE STATEMENT**

Before the Court is cross-defendant Maximus, Inc.'s motion to dismiss Compass Vision, Inc.'s cross-complaint, or in the alternative, for a more definite statement. The cross-complaint pleads four related claims, all to the effect that Maximus has failed to defend or to agree to indemnify Compass Vision from plaintiff's complaint. The duty to indemnify

arises, the cross-complaint alleges, by reason of the negligence or willful misconduct of Maximus, its employees or agents. However, as Maximus correctly points out, the cross-complaint pleads no facts from which a court could conclude that Maximus acted negligently or committed willful misconduct. As the Supreme Court recently explained in Ashcroft v. Iqbal ___ U.S. ___, 129 Sup. Ct. 1937, (2009), conclusory recitations of the legal elements of a claim without factual support are no longer adequate to state a claim. None of the cases Compass Vision cites were decided after Iqbal, which has generally been interpreted as having tightened federal pleading standards. Moss v. U.S. Secret Service, __ F.3d __, 2009 WL 2052985 at *5-6 (9th Cir.)

Under the circumstances, the Court finds no need for further briefing or argument and vacates the hearing presently set for September 23, 2009. **IT IS HEREBY ORDERED** that the motion of Maximus for a more definite statement is **GRANTED** and that the motion to dismiss is **DENIED** without prejudice to being renewed after the amended cross-complaint is filed. See Moss, supra, at *1. Compass Vision shall file an amended cross-complaint by **August 26, 2009**.

Dated: August 5, 2009



Bernard Zimmerman
United States Magistrate Judge

G:\BZALL\BZCASES\WILSON\ORD GRANTING MORE DEF STMT.MAXIMUS.wpd